

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Civil Action #

-----X
KARLA LAMBERT ,

Plaintiff,

-against-

**VERIFIED
COMPLAINT**

UNITED STATES OF AMERICA,

Defendant.
-----X

Plaintiff, KARLA LAMBERT, by her attorneys, TANNENBAUM BELLANTONE & SILVER, P.C., complaining of the defendant herein, respectfully alleges and shows to this court as follows:

JURISDICTION AND VENUE

1. Plaintiff is a resident of the County of Orange in the State of New York.
2. The claims herein are brought against the United States pursuant to the Federal Tort Claims Act (28 U.S.C. §2671, et seq) and 28 U.S.C. §1346(b)(1) for money damages as compensation for personal injuries that were caused by the negligence, wrongful acts and omissions and departures from good an accepted medical practice of employees of the United States Government while acting within the scope of their office and employment under the circumstances where the United States, if a private person, would be liable to the plaintiff in accordance with the laws of the State of New York.
3. Venue is proper in that all, or a substantial part of the acts and omissions forming the basis of this claim occurred in the Southern District of New York and arose out of serious, severe and permanent personal injuries sustained by the plaintiff, KARLA LAMBERT, and as a result of negligence and departures from good and accepted medical practice by Christopher M. Allen, M.D. and Natalie Jouve, M.D., employees of the United States Department of Health and Human Services, during the performance of a cesarean -section upon the Plaintiff on August 23, 2016 at the Orange Regional Medical Center located at 707 East Main Street, Middletown, New York.
4. Plaintiff has fully complied with the provisions of 28 U.S.C. §2675 of the Federal Tort Claims Act.

5. This suit has been timely filed in that Plaintiff timely served a notice of her claims on the United States Department of Health and Human Services. The claim was received on April 17, 2018.

6. More than six months has elapsed since the presentation of the claim and there has been no denial or compromise of the claim.

EVENTS FORMING THE BASIS OF THE CLAIM

7. That at all times hereinafter mentioned, CHRISTOPHER M. ALLEN, M.D. was and is a physician duly licensed to practice medicine in the State of New York and an employee of the defendant, United States of America.

8. That at all times hereinafter mentioned, CHRISTOPHER M. ALLEN, M.D. held himself out as a physician who specialized in obstetrics and gynecology.

9. That at all times hereinafter mentioned, NATALIE JOUVE, M.D. was and is a physician duly licensed to practice medicine in the State of New York and an employee of the defendant, United States of America.

10. That at all times hereinafter mentioned, NATALIE JOUVE, M.D. held herself out as a physician who specialized in obstetrics and gynecology.

11. That on or about August 23, 2016, CHRISTOPHER M. ALLEN, M.D. and NATALIE JOUVE, M.D. undertook to and did render medical treatment to the plaintiff, KARLA KAMBERT, to wit a cesarean-section and delivery of her of her child at the Orange Regional Medical Center located in Middletown, New York.

12. That between, on or about, August 22, 2016 and August 26, 2016, the defendant, UNITED STATES OF AMERICA, its agents, servants and/or employees undertook to and did render medical treatment to the plaintiff, KARLA LAMBERT to wit, a cesarean-section and delivery of her baby.

13. During the performance of the above referenced cesarean -section laparotomy pads were used to absorb fluids around the surgical field.

14. That on or about August 6, 2017, the plaintiff presented to ORANGE REGIONAL MEDICAL CENTER, Emergency Room with complaints of severe abdominal pain.

15. A CT scan taken at ORANGE REGIONAL MEDICAL CENTER on August 6, 2017 revealed a “foreign body in the abdomen, an opaque ring with surgical pad.”

16. The “foreign body in the abdomen, an opaque ring with surgical pad.” was left behind during the cesarean-section which was performed on August 23, 2016, by CHRISTOPHER M. ALLEN M.D. at the ORANGE REGIONAL MEDICAL CENTER.

17. That on August 7, 2017, the plaintiff, KARLA LAMBERT underwent an exploratory laparotomy, extensive lysis of adhesions, removal of abdominal foreign body mass, resection of portion of terminal ileum, right olong and cecum, with ileostomy and abdominal washout at ORANGE REGIONAL MEDICAL CENTER.

18. That the defendant, UNITED STATES OF AMERICA, its agents servants and/or employees, were reckless and negligent and departed from good and accepted medical practice in failing to remove a surgical laparotomy pad after plaintiff’s cesarean section; in failing to conduct an intra-operative and/or post-operative inspection of plaintiff to account for all surgical packing and/or gauze placed within the plaintiff during her cesarean section; in failing to properly account for all surgical pads, packing and/or gauze place within the plaintiff’s body during the cesarean section; in failing to remove all surgical pads, packing and/or gauze; in negligently, carelessly and recklessly failing to perform a proper and correct sponge and lap count; in failing to realize that the sponge and lap count was incorrect before discharging the plaintiff from the hospital on August 27, 2016; in negligently discharging the plaintiff from the hospital after her c-section; in causing the plaintiff sustain post-operative infection that resulted in plaintiff requiring an additional surgery and colostomy and otherwise being careless and negligent under the circumstances. In addition, plaintiff claims the doctrine of res ipsa loquitur applies herein.

19. That by reason of the foregoing, the plaintiff, KARLA LAMBERT, was caused to sustain and suffer serious, severe and permanent personal injuries and pain and suffering, has been caused to incur medical expenses for past and future medical treatment and therapies, as well as other care, and has otherwise been caused to be damaged thereby.

20. That said occurrence and resulting injuries were caused wholly and solely by reason

of the carelessness and negligence of the defendant, its agents, servants, medical staff, employees and/or those persons who rendered treatment to the plaintiff as set forth above and with no fault or lack of care on the part of the plaintiff herein contributing thereto.

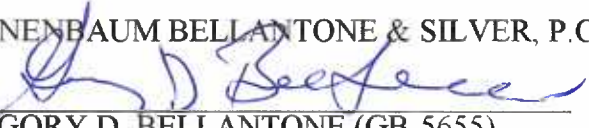
21. That the limited liability provisions set forth in CPLR §1601 do not apply to defendants, via operation of CPLR §1602(2)(iv) of the CPLR, as said in that the defendant had a non-delegable duty to provide non-negligent medical care to plaintiff; to defendants, via operation of §1602(2)(iv) of the CPLR, as said defendants are liable to plaintiff, pursuant to the doctrine of respondeat superior for the negligence and/or carelessness and/or recklessness of said defendant by and through its agents, servants, and/or employees.

22. That by reason of the foregoing, the plaintiff has sustained damages in the sum of FIVE MILLION (\$5,000,000.00) Dollars.

WHEREFORE, plaintiff demands judgment against the defendant, United States of America in the sum of FIVE MILLION (\$5,000,000.00) Dollars, together with costs, disbursements and interest computed from the date of any verdict rendered herein.

Dated: Lake Success, New York
October 23, 2018

TANNENBAUM BELLANTONE & SILVER, P.C.

By: 
GREGORY D. BELLANTONE (GB-5655)
Attorneys for Plaintiff(s)
Office and P.O. Address
2001 Marcus Avenue, Suite N125
Lake Success, New York, 11042
(516) 354-0200

TO: Attorney General of the United States
Department of Justice
Room 5111
10th & Constitution Avenue
Washington, D.C. 20530

United States Attorney for the Southern District of New York
86 Chambers Street, 3rd Floor
New York, NY 10007
Attention: Civil Process Clerk


CERTIFICATE OF MERIT

GREGORY D. BELLANTONE, an attorney duly licensed to practice law in the State of New York, affirms the following statement to be true under penalties of perjury:

1. I am a member of the law firm of TANNENBAUM, BELLANTONE & SILVER, P.C., attorneys for the plaintiff herein, and after a review of the file, I am fully familiar with the contents of the file as maintained in this office.

2. Pursuant to CPLR 3012(a), I have consulted with a physician licensed to practice medicine in the State of New York, who is knowledgeable of the relevant issues regarding this matter, and that I have concluded on the basis of such consultation that there is reasonable basis for the commencement of this action.

Dated: Lake Success, New York
October 23, 2018



Gregory D. Bellantone, Esq.

ATTORNEY VERIFICATION

The undersigned, an attorney admitted to practice in the Courts of New York State, states under penalty of perjury that I am one of the attorneys for the plaintiff in with within action:

I have read the foregoing VERIFIED COMPLAINT and know the contents thereof; that the same is true to my own knowledge, except as to the matters I believe to be true. The reason this verification is made by me and not by my client(s) is that my client(s) are not presently in the County where I maintain my offices. The grounds of my belief as to all matters not stated upon my own knowledge are the materials in my file and the investigation conducted by my office.

Dated: Lake Success, New York
October 23, 2018


GREGORY D. BELLANTONE

Index No.	Year	RJI No.	Hon.
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KARLA LAMBERT,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendants.

VERIFIED COMPLAINT

TO:

Signature (Rule 130-1.1-a)



.....
Print name beneath

Attorney(s) for Plaintiff(s)

Service of a copy of the within

is hereby admitted.

Dated:

.....
Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

That the within is a (*certified*) true copy of a
duly entered in the office of the clerk of the within names court on

☐ NOTICE OF SETTLEMENT

That an order of which the within is a true copy will be presented for
settlement to the HON. one of the judges

of the within named court, at
on at

Dated,

Yours, etc.

TANNENBAUM, BELLANTONE, & SILVER, P.C.

Attorney(s) for Plaintiff(s)

Office and Post Office Address

2001 Marcus Avenue Ste. N 125

Lake Success, NY 11042

File No.: 5894GB